

REMARKS

1. Claims 1-46 are in the application as originally filed. Claims 33-46 have been withdrawn by the Examiner pursuant to 37 C.F.R. § 1.142(b) as being drawn to a non-elected group. Claims 47-51 have been added by this amendment.

2. Claims 1-2 and 13 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Shute patent 524,654. Claim 1 has been amended to recite that the brush has a handle and that the handle is smoothly contoured relative to the brush at the end adjacent to the brush to provide for a brushing of the hair, during the rotation of the core, without entangling the hair Shute does not disclose this.

Claim 2 is dependent from claim 1 and is accordingly allowable over Shute for the same reasons as claim 1. Claim 2 is also allowable over Shute because of the following recitations:

a support member is mounted on the dividers and is provided with a configuration producing a close fit with the dividers and with a smooth concave configuration between the dividers,

end caps are disposed at the opposite sides of the core and are provided with a configuration corresponding to that of the support member, and the support member and the end caps are configured to prevent the hair being brushed from becoming entangled on the brush as the brush rotates.

Claim 13 recites a handle disposed at one end of the brush, the handle being concave at the position adjacent to the core and forming a seamless relationship with the

core to prevent hair from becoming entangled on the brush as the brush rotates. Shute does not disclose these features.

3. Claims 1-3, 5, 7-19 and 21-32 have been rejected under 35 U.S.C. § 102(b)

as being anticipated by Marino patent 6,098,635. Claims 1-3 are allowable

5 over Marino for the reasons discussed above. This also applies to claim 5. This also applies to claims 14-19 which are dependent from claim 13 and which are accordingly allowable over Marino for the same reasons as discussed above with respect to claim 13. Claim 15 is additionally allowable over Marino because of the recitation that the handle is smoothly cratered relative to the brush at the end adjacent to the brush to provide for
10 the brushing of the hair, during the rotation of the core and the dividers, without entangling the hair on the brush.

Claims 21-26 are allowable over Marino for certain important reasons.

Marino does not disclose a handle at one of the opposite ends of the core and the dividers and an end cap disposed at the other end of the core and the dividers, the
15 end cap being provided with a peripheral configuration to prevent the user's hair from being entangled in the rotatable hair brush as the hair brush rotates.

Claims 22-25 are dependent from claim 21 and recite additional features of the end cap and the handle, these additional features further distinguishing claims 22-25 over Marino. These additional features are as follows:

20 Claim 22. The end cap disposed on the core and the dividers is provided with a concave configuration between each adjacent pair of the dividers to prevent the user's hair from being entangled on the brush during the rotation of the hair brush.

Claim 23. The concave configuration of the end cap extends between each adjacent pair of the dividers and

the peripheral configuration of the end cap at each of the dividers corresponds to the peripheral configuration of the dividers and provide a smooth continuity with the concave configuration of the end cap at the positions between the adjacent pairs of the dividers.

Claim 24. An end cap is provided adjacent the handle and

the handle and the end cap adjacent the handle are provided with a smooth composite configuration to prevent the user's hair from being entangled when the hair brush is rotating.

Claim 25. The handle and the end cap adjacent the handle are provided with a smooth concave composite configuration to prevent the user's hair from being entangled on the brush when the hair brush is rotating.

Since claim 26 is dependent from claim 25, it is allowable over Marino for the same reasons as claim 25. Claim 26 is also allowable over Marino for the reasons discussed above with respect to claim to claims 23 and 24.

Claims 27-32 are allowable over Marino for a number of important reasons. Claim 27 is allowable over Marino because it does not disclose a handle at one of the opposite ends of the core and the divider and an end cap adjacent the handle, the handle and the end cap at the end of the handle being provided with a smooth composite configurations to prevent the user's hair from being entangled on the brush when the hair brush rotates.

Claim 29 is allowable over Marino for the same reasons as claim 28 because of its dependency from claim 28. Claim 29 is also allowable over Marino because of the recitation that the smooth concave composite configuration of the handle and the adjacent end of the cap is seamless.

5 Since claim 30 is dependent from claim 28, it is allowable over Marino for the same reasons as claim 28. Claim 30 is also allowable over Marino because it recites that an end cap is disposed at the opposite end of the core and the dividers from the handle and is provided with a peripheral configuration to prevent the user's hair from being entangled in the rotatable hair brush as the brush rotates.

10 Claim 31 is allowable over Marino because it recites that the end cap at the opposite end of the core is provided with a smooth concave configuration to prevent the user's hair from being entangled on the brush as the hair brush rotates. Claim 31 is also allowable over Marino because it is dependent from allowable claim 30.

15 In claim 32, there is a recitation that the end cap at the opposite end of the core has portions extending over the dividers in a smooth configuration and that the smooth concave configuration of the end cap is continuous with the portion of the end cap extending over the dividers. Marino does not disclose this. Claim 32 is also allowable over Marino because of its dependency from allowable claim 31.

4. Claim 4, 6 and 20 have been rejected under 35 U.S.C. § 103(a) as being
20 unpatentable over Marino patent 6,098,635 in view of Lesetar patent 3,890,984. Claims 4 and 6 are dependent from claim 1 and are accordingly allowable over the combination of Marino and Lesetar for the same reasons as claim 1. Claim 6 is additionally

allowable over the combination of Marino and Lesetar because it recites that a support member is mounted on the dividers and is provided with a configuration producing a close fit with the dividers and is provided with a smooth concave configuration between the dividers. Claim 6 is also allowable over the combination of Marino and Lesetar because it recites that (a) end caps are disposed at the opposite ends of the core and are provided with a configuration corresponding to that of the support member and (b) the support member and the end caps are configured to prevent the hair being brushed from becoming entangled on the brush as the brush rotates.

Applicants have added claims 47-51 by this amendment. Claims 47-51 are allowable over Shute, Marino and Lesetar, whether these references are applied individually or in combination against the claims. For example, claim 47 recites a handle at one of the opposite ends of the core and the dividers, the handle having a smooth and cratered configuration at the end adjacent the core and the dividers to prevent hair from becoming entangled on the core as the core and the dividers rotate. None of Shute, Marino and Lesetar discloses this relationship.

Since claim 48 is dependent from claim 47, it is allowable over Shute, Marino and Lesetar, whether used individually or in combination, for the same reasons as claim 47. Claim 48 is also allowable over these references, whether used individually or in combination, because of the recitation that the cratered configuration of the handle at the end adjacent to the core and the dividers forms a seamless relationship with the core to prevent hair from becoming entangled on the core as the core and dividers rotate.

Claim 49 is dependent from claim 47 and is accordingly allowable over the references, whether individually or in combination, for the same reasons as claim 47.

Claim 49 is also allowable over the references, whether individually or in combination, because it recites that the cratered configuration of the handle at the end adjacent to the core and the dividers is smoothly concave to prevent hair from becoming entangled on the core as the core and the dividers rotate.

5 Claim 50 is allowable over the references, whether used individually or in combination, for the same reasons as claim 47 because of its dependency from claim 47. Claim 50 also recites that the end cap and the collar are disposed on the dividers, at the other end of the dividers from the handle, in a closely fit relationship with the dividers and is provided with a smooth and concave configuration in the positions between
10 adjacent dividers to prevent the user's hair from becoming entangled on the brush as the core and the dividers rotate. None of the references, whether individually or in combination, discloses what is recited in claim 50.

Because of its dependency from claim 48, claim 51 is allowable over the references, whether individually or in combination, for the same reasons as claim 48.

15 Claim 51 is also allowable over the references, whether individually or in combination, for the following reasons:

- 20 a. None of the references discloses, whether individually or in combination, that a support member is provided at the opposite end of the core and is provided with a smooth concave configuration between the dividers;
- b. None of the references, whether individually or in combination, discloses that end caps are disposed on the opposite ends of the

core and are provided with a configuration corresponding to that of the support member; and

- c. None of the references discloses, whether individually or in combination, that the support member and the end caps are configured to prevent the hair being brushed from becoming entangled on the brush as the brush rotates.

5 In order for different prior art references to be combined to reject a claim, the references have to disclose or suggest the combination recited in the claim. ACS Hospitality Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed.Cir. 1984). As the Federal Circuit indicated in the ACS case at 732 F.2d 1577, 1579, 221 USPQ 929, 933:

15 "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. Under Section 103, teaching of references can be combined only if there is some suggestion or incentive to do so."

20 None of Shute, Marino and Lesetar cited by the Examiner to reject the claims in this application discloses or suggests certain of the features recited in the claims. This has been discussed in detail above. The references cannot accordingly be combined to reject the claims.

6. Claims 1-32 and 47-51 are allowable over the cited references whether the references are used individually or in combination. Because of this, reconsideration and allowance of claims 1-32 and 47-51 are respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: Ellsworth R. Roston
Ellsworth R. Roston
Registration No. 16,310

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Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
10 Facsimile: (310) 824-9696
Customer No. 24201

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